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 13 DOLLAR TREE STORES, INC.

14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA

16 MIGUEL A. CRUZ, and JOHN D. HANSEN,
 17 individually and on behalf of all others
 similarly situated,

18 Plaintiffs,

19 v.

20 DOLLAR TREE STORES, INC.,
 21 Defendant.

CASE NO. C 07 2050 SC
 CASE NO. C 07 04012 SC

**DECLARATION OF ALEX
 HERNAEZ IN SUPPORT OF
 DOLLAR TREE STORES, INC.'S
 REPLY ON SUMMARY
 JUDGMENT AS TO ROBERT
 RUNNINGS**

22 **DATE:** March 21, 2008
TIME: 10:00 a.m.
DEPT: Ctrm. 1, 17th Floor
JUDGE: Hon. Samuel Conti

23 **COMPLAINTS FILED:** April 11, 2007
 July 6, 2007
TRIAL DATES: No dates set.

24 ROBERT RUNNINGS individually, and on
 25 behalf of all others similarly situated,

26 Plaintiff,

27 v.

28 DOLLAR TREE STORES, INC.,
 Defendant.

1 I, Alex Hernaez, declare:

2 1. I am a partner with the firm of Kauff, McClain & McGuire, LLP,
 3 attorneys of record for Defendant Dollar Tree Stores, Inc. in the above-captioned matter.

4 2. I have personal knowledge of the facts stated in this declaration
 5 and, if called as a witness, would be competent to testify thereto.

6 3. On February 11, 2008, the parties held a conference call to discuss
 7 a briefing scheduling for the instant summary judgment motions and to discuss certain
 8 discovery disputes. Mr. Fietz and his co-counsel Ms. Lin participated on behalf of
 9 Plaintiffs.

10 4. During the conference call, Dollar Tree agreed to supplement
 11 certain information and Plaintiffs' agreed to reformulate certain questions.

12 5. On February 18, 2008, Dollar Tree served supplemental discovery
 13 responses on Plaintiffs. On February 25, 2008, Dollar Tree served a second set of
 14 supplemental discovery responses on Plaintiffs.

15 6. Also on February 25, 2008, I made a follow-up inquiry as to the
 16 status of the reformulated discovery requests. See Exhibit A (email exchange between
 17 counsel). Ms. Lin did not respond to my email.

18 7. Accordingly, on February 28, 2008, I sent another follow up email
 19 asking Ms. Lin: "Are you going to send us the amended discovery requests?" Again, Ms.
 20 Lin did not respond. However, Mr. Fietz responded by saying: "Yes, of course. We are
 21 a little tied up with deadlines as you know. Feel free to send us your supplements so far
 22 though."

23 8. As of today, Plaintiffs have not served the reformulated discovery
 24 requests.

1 I declare, under penalty of perjury under the laws of the United States of
2 America, that the foregoing is true and correct.

3 DATED: March 14, 2008

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ALEX HERNAEZ

EXHIBIT A

Hernaez, Alex

From: Jeremy Fietz [jeremy@classattorneys.com]
Sent: Thursday, February 28, 2008 9:00 PM
To: Hernaez, Alex; Carrie S. Lin
Subject: RE: Runnings

Yes, of course. We are a little tied up with deadlines as you know. Feel free to send us your supplements so far though.

-----Original Message-----

From: Hernaez, Alex [mailto:hernaez@kmm.com]
Sent: Thursday, February 28, 2008 2:56 PM
To: Carrie S. Lin; jeremy@classattorneys.com
Subject: RE: Runnings

Are you going to send us the amended discovery requests?

From: Hernaez, Alex
Sent: Monday, February 25, 2008 9:24 PM
To: 'Carrie S. Lin'; jeremy@classattorneys.com
Subject: RE: Runnings

My notes indicate that there were some questions you would amend and some we would supplement. It seems most efficient for me to prepare one amended pleading encompassing both?

From: Carrie S. Lin [mailto:clin@scalaw.com]
Sent: Monday, February 25, 2008 9:19 PM
To: Hernaez, Alex; jeremy@classattorneys.com
Subject: Runnings

You need us to resend you the discovery before you can supplement? I thought we discussed what we were asking for – at length – on the phone a couple of weeks ago.

Carrie S. Lin, Esq.
Scott Cole & Associates, APC
Attorneys and Counselors
Telephone: (510) 891-9800
Facsimile: (510) 891-7030

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Please visit our website at: <http://www.scalaw.com> for more information about Scott Cole & Associates, APC.

From: Hernaez, Alex [mailto:hernaez@kmm.com]
Sent: Monday, February 25, 2008 9:10 PM
To: Carrie S. Lin; jeremy@classattorneys.com
Subject: Runnings

Hello all. I think we are waiting for you to resend certain discovery questions so we can supplement. Is that going to happen soon?

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